STATEMENT OF OBJECTS AND REASONS

Article 102(1) (*a*) of the Constitution lays down that a person shall be disqualified for being chosen as, and for being, a member of Parliament if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder. There were certain Committees or Boards set up by Government both before and after the commencement of the Constitution to which members of Parliament had been appointed and were in receipt of certain allowance and/or fees (like subsistence allowance, daily allowance and travelling allowance) in connection with their duties as members of such Committees or Boards. As it is felt that in these cases the question as to disqualification for membership of Parliament is not free from doubt, and in any case, as such appointments were made under the *bona fide* belief that they would not amount to a disqualification under Article 102(1) (*a*) of the Constitution, the Bill makes provision to remove such disqualification retrospectively.

The Office of the Assistant Government Pleader held under the Government of Assam has also been included in the Bill, as the member concerned who had been holding the post since 1948 was under a misapprehension at the time of his election to the Provisional Parliament on 5th January, 1950 and resigned the office when he came to know of the constitutional position".

This is the Central Government Bill.

I move that the The Legislative Assembly of Travancore-Cochin (Removal of Disqualifications Bill) be taken up for consideration at once.

Sri. A. Thanu Pillai: Sir, I oppose the mo ion. In the Article 191, it is like this.—

> "A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly or Legislative Council of a State—
>
> (*a*) if he holds any office of profit under the Government of India or the Government of any State specified in the First Schedule, other than an office declared by the Legislature of the State by law not to disqualify its holder."

No doubt, the Constitution makes provision that an office of profit may be declared not to disqualify its holder to be a member of Parliament. In the Central Parliament bill, they seek to remove these disqualifications in respect of certain specified offices. That really is what is contemplated in Article 191: "other than an office declared by the Legislature of the State by law not to disqualify its holder". Here, that is not what is sought to be done. Here it is stated"—A person shall not be disqualified for being chosen as and for being a member of the Travancore-Cochin Legislative Assembly by reason only (1) that he holds under the Government of India or the Government of any State specified in the first schedule, to the Constitution of India an office which is not remunerated either by salary or by fees payable out of the Consolidated Fund of India or of any such State." If an office is not remunerated out of the Consolidated Fund of India or of a state, then that office may constitute an office of profit or may not constitute an office of profit. There is no necessity for such a bill. Such offices also may be offices of profit. We cannot say that all offices are exempted from this enactment. It is not that I agree to the Government's position. Here a committee is sought to be made. The office is remunerated out of the Consolidated Fund of the state. There are offices not remunerated out of the Consolidated Fund of the state. What is the principle on which this disability is imposed by Article 191? Is it that the members of the Legislature should not be under obligation of Government. A Member is expected to do his duty out of consideration for the interests of the state and not to please particular Ministers or Ministries or Government. That evidently is one of the basic considerations in respect of this provision. Now, how can we say, so long as

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[Sri. A. Thanu Pillai]

an office is remunerated out of the Consolidated Fund, the Government may, give any member of Parliment any office, and then he will not be disqualified. Even in this House, a point was raised by me that the Post-war Reconstruction Fund would be part of the Consolidated Fund of the state and the Hon'ble Finance Minister then raised the contention that it would not be part of the Consolidated Fund of the state. Suppose, we accept, for argument's sake, the contentien of the Finance Minister that the Post-war Reconstruction Fund is not part of the Consolidated Fund of the state, and a member of this House is appointed to an office remunerated out of the Post-war Reconstruction Fund, Can we have that? To some extent, we are all paid out of other funds. It is the source of the money that really matters. It is the fact that the Member concerned is under obligation to some body in such a way that he cannot be expected to discharge his duties as a Member of this House. He is a representative of the people. That is why I said offices should be exempted by name. In the Central Parliament also the same thing happened and they come forward with the specific mention of particular offices, to which evidently by mistake they appointed certain Members of Parliament and whom Government do not want to deprive of their places in the Legislature. In other places also, it is by name that offices are mentioned. If particular offices are mentioned, this House can consider them. But here a wholesale exemption is given. There are Members who are remunerated by certain banks. They are given positions of great influence and also positions of profit even though the money may come from the bank. Their emoluments, their position of the influence that hey holds, all these will bind the Member. Let the Government come forward with particular offices and it is for this House to consider whether those offices should be exempted or not. Then again Sir, in clause 3 "A person shall not be deemed to be or to have been disqualified for being a member of the Travancore-Cochin Legislative Assembly by reason only that such person had prior to the commencement of this Act held under the Government of Travancore-Cochin an office which was not a whole time office or that he had held an office in any educational institution other than a Government institution." Why should the partime officers be excluded as a whole? Here in the Government of India Bill we find "the office of the Asst. Government Pleader held under the Government of Assam for any period not extending after 8th Novenber....." and so on. Any way, a part time office is considered to be an office of profit. Why should our Government say 'no' now? Part time offices would not be considered as officers of profit for any period prior to the commencement of the Act. Why should there be that wholesale exclusion? For these reasons this is not framed in the spirit in which it ought to be in consonance with Article 191. So I oppose this Bill.

Sri. D. Gnanasigamoni: There can be no doubt that there is need for such an enactment. The real objection in regard to this bill is that the disqualifications have not been enumerated, as it has been done in the corresponding Central Act. If only that method had been followed here also, the very serious objection raised by the hon'ble Member Mr. Pattam perhaps would not have been raised. We must know in what all causes, disqualifications will have to be removed. The enumerative method followed in the centre alone will give us an idea of the nature of the disqualifications and the need or otherwise of removing them. So I move that the Bill may be referred to a select committee so that the defects may be rectified.

മിസ്റ്റർ സ്പീക്കർ: ഈ ബില്ലിൽ അടങ്ങിയ ഒരു വിഷയത്തെ സംബന്ധിച്ച് ഈ സഭയിൽ ഇതിനുമുമ്പ് ചില പ്രസ്താവനകൾ ഉണ്ടായിട്ടുണ്ട്. നിയമപ്രകാരം അയോഗ്യത വരുത്തിട്ടുള്ളതായി പറയപ്പെടാവുന്ന മെമ്പറന്മാരുടെ

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പേരുവിവരം മേശപ്പുറത്തു് വച്ചിരുന്നു. അതിൽപിന്നീടും അപ്രകാരം അയോഗ്യതയ്ക്കു വിധേയമായിരിക്കുന്നതായി ഗണിക്കാവുന്ന വേറെയും ചില മെമ്പറന്മാരുടെ പേരുവിവരം കിട്ടിയതനുസരിച്ചു് അതിനെ സംബന്ധിച്ചു് കൂടുതൽ വിവരം അറിയുന്നതിനായിട്ടു് ഗവണ്മെൻറിലേക്കു എഴുതി അയച്ചിട്ടുണ്ടായിരുന്നു. ആ വിവരങ്ങളും ഇന്നലെ കിട്ടിയിട്ടുണ്ടു്. കിട്ടിയ ലിസ്റ്റു് ലജിസ്ലേച്ചർ ലൈബ്രറി മേശപ്പുറത്തു് ഉണ്ടായിരിക്കുന്നതാണു്. അതുകൂടിനോക്കി ഈ ബില്ലിനെ സംബന്ധിച്ചു് വാദപ്രതിവാദം ചെയ്യുതിനുശേഷം ഈ ബിൽ സെലക്ടു് കമ്മിറ്റിക്കു അയക്കുന്നതായിരിക്കും നല്ലതു് എന്നു വിചാരിക്കുന്നു.

ഈ സഭ അവധിനിർണ്ണയിക്കാതെ മാറ്റിവച്ചിരിക്കുന്നു.

The House adjourned at 4-35 p.m. sine die.

V. KRISHNAMOORTHI AIYAR
Secretary to the Legislative Assembly

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APPENDIX

No. LA. 1-4/51.

NOTIFICATION

In exercise of the powers conferred by sub-clause (*b*) of clause 2 of Article 174, read with clause 1 of Articl 238 of the Constitution of India, His Highness the Rajapramukh of the State of Travancore-Cochin hereby prorogues the Third Session of the Travancore-Cochin Legislative Assembly with effect from the 5th April 1951.

Legislature Secretariat,
Trivandrum,
13th April 1951.

V. KRISHNAMOORTHI AIYAR
Secretary, Legislative Assembly